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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,823	06/05/2001	Stephen Wladyslaw Wasko	930.328USW1	8230
32294	7590	01/08/2004		
SQUIRE, SANDERS & DEMPSEY L.L.P. 14TH FLOOR 8000 TOWERS CRESCENT TYSONS CORNER, VA 22182			EXAMINER GARY, ERIKA A	
			ART UNIT 2681	PAPER NUMBER

DATE MAILED: 01/08/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/874,823

Applicant(s)

WASKO, STEPHEN WLADYSLAW

Examiner

Erika A. Gary

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on October 9, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Objections***

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2. Claim 10 is objected to because of the following informalities: should "present attenuation means" be "preset attenuation means"? Appropriate correction is required.

***Allowable Subject Matter***

3. The indicated allowability of claims 9-15 is withdrawn in view of the newly discovered reference(s) to Wright et al. in view of Satyanarayana. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al., US Patent Number 6,054,896 (hereinafter Wright) in view of prior art cited in the previous office action, Satyanarayana, US Patent Number 5,898,733 (hereinafter Satyanarayana).

Regarding claim 9, Wright discloses a transmitter for transmitting RF data in an RF communication network using a plurality of carrier frequencies, said RF data being represented by an information signal at a selectable carrier frequency, the transmitter comprising: a data splitter arranged to receive said information signal modulated onto an intermediate frequency lower than the carrier frequency; and two transmitter paths

each having an input connected to the data splitter and each having a frequency converter arranged to upconvert the intermediate frequency modulated signal to a respective carrier frequency, the carrier frequency being individually selectable for each transmitter path [figs. 2, 25; col. 7: lines 38-51; col. 33: lines 60-63].

What Wright does not specifically disclose is the transmitter being configured such that for each of the two transmitter paths, when an information signal is being transmitted on that transmitter path, the carrier frequency for transmission on the other transmitter path is being selected, such that, in each case, the carrier frequency being selected for a channel is distinct from a previous carrier frequency at which that channel is transmitted. However, Satyanarayana teaches this limitation as Satyanarayana teaches varying the carrier frequency of each transmission compared with the last transmission [abstract; col. 2: line 55 – col. 3: line 11].

Wright and Satyanarayana are combinable because they are from the same filed of endeavor, that is, radio frequency transmitters. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Wright to include Satyanarayana in order to vary the carrier frequency sufficiently to reduce interference.

Regarding claim 10, it is inherent in the art that a transmitter includes a preset attenuation means located to attenuate the upconverted information signal prior to transmission.

Regarding claim 11, Wright discloses each transmitter path includes an amplifier located to amplify the upconverted, optionally attenuated, information signal prior to transmission [fig. 2: refs. 15, 16].

Regarding claim 12, it is inherent in the art that a transmitter path includes adjustable attenuation means for attenuating the upconverted information signal prior to transmission.

Regarding claim 13, Wright discloses a power combiner, each transmitter path having an output connected to the power combiner [fig. 2: ref. 25].

Regarding claim 14, it is inherent in the art to include power control means for controlling the adjustable attenuation means.

Regarding claim 15, Wright discloses each frequency modulator comprises a frequency generator and a signal mixer [fig. 25].

### ***Allowable Subject Matter***

6. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner suggests also including that the data splitter is connected to a timing controller.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 703-308-0123. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N. Tran can be reached on 703-305-4040. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750 or to the 2600 Customer Service Office at 703-306-0377.

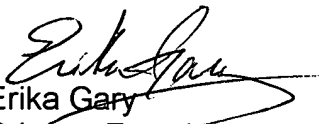
**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal  
Drive Arlington, VA., Sixth Floor (Receptionist).

  
Erika Gary  
Primary Examiner

**ERIKA GARY  
PATENT EXAMINER**

EAG  
January 6, 2004